
CHAPTER 7 CONSTITUTION**PART A – GENERAL****7.01 Introduction**

- (1) Parts B to N of this Chapter set out the provisions which an applicant or a listed corporation must ensure are contained in its constitution.
- (2) Part O of this Chapter sets out the additional provisions which a closed-end fund must ensure are contained in its constitution.
- (3) Part P of this Chapter sets out the additional provisions which a special purpose acquisition company must ensure are contained in its constitution.

PART B – DEFINITIONS**7.02 Definitions**

For the purpose of this Chapter, unless the context otherwise requires, “**company**” means a company which is seeking a listing on the Official List or a listed corporation.

PART C – CAPITAL**7.03 [Deleted]****7.04 [Deleted]****7.05 [Deleted]****7.06 [Deleted]****7.07 Capital paid on shares in advance of calls**

Capital paid on shares in advance of calls shall not, whilst carrying interest, confer a right to participate in profits.

7.08 Issue of new shares to members

Subject to any direction to the contrary that may be given by the company in general meeting, all new shares or other convertible securities shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion as nearly as the circumstances admit, to the amount of the existing shares or securities to which they are entitled. The offer shall be made by notice specifying the number of shares or securities offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and, after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares or securities offered, the directors may dispose of those shares or securities in such manner as they think most beneficial to the company. The directors may likewise also dispose of any new share or security which (by reason of the ratio which the new shares or securities bear to shares or securities held by persons entitled to an offer of new shares or securities) cannot, in the opinion of the directors, be conveniently offered under this constitution.

PART D – FORFEITURE AND LIEN**7.09 Company's lien on shares and dividends**

The company's lien on shares and dividends from time to time declared in respect of such shares, shall be restricted to unpaid calls and instalments upon the specific shares in respect of which such moneys are due and unpaid, and to such amounts as the company may be called upon by law to pay and has paid in respect of the shares of the member or deceased member.

7.10 Sale of shares forfeited

If any share is forfeited and sold, any residue after the satisfaction of the unpaid calls and accrued interest and expenses, shall be paid to the person whose shares have been forfeited, or his executors, administrators or assignees or as he directs.

PART E – TRANSFER AND TRANSMISSION**7.11 Transfers of securities**

The transfer of any listed security or class of listed security of the company, shall be by way of book entry by the Depository in accordance with the Rules of the Depository and, notwithstanding sections 105, 106 or 110 of the Companies Act, but subject to section 148(2) of the Companies Act and any exemption that may be made from compliance with section 148(1) of the Companies, the company shall be precluded from registering and effecting any transfer of the listed securities.

7.12 Transmission of securities

Where -

- (a) the securities of a company are listed on another stock exchange; and
- (b) such company is exempted from compliance with section 14 of the Securities Industry (Central Depositories) Act 1991 or section 29 of the Securities Industry (Central Depositories) (Amendment) Act 1998, as the case may be, under the Rules of the Depository in respect of such securities,

such company shall, upon request of a securities holder, permit a transmission of securities held by such securities holder from the register of holders maintained by the registrar of the company in the jurisdiction of the other stock exchange, to the register of holders maintained by the registrar of the company in Malaysia and vice versa provided that there shall be no change in the ownership of such securities.

PART F – MODIFICATION OF RIGHTS**7.13 [Deleted]****PART G – BORROWING****7.14 Scope of directors' borrowing powers**

The scope of the borrowing powers of the board of directors shall be expressed.

PART H – MEETINGS**7.15 Notices of meetings**

The notices convening meetings shall specify the place, day and hour of the meeting, and shall be given to all shareholders at least 14 days before the meeting or at least 21 days before the meeting where any special resolution is to be proposed or where it is an annual general meeting. Any notice of a meeting called to consider special business shall be accompanied by a statement regarding the effect of any proposed resolution in respect of such special business. At least 14 days' notice or 21 days' notice in the case where any special resolution is proposed or where it is the annual general meeting, of every such meeting must be given by advertisement in at least 1 nationally circulated Bahasa Malaysia or English daily newspaper and in writing to each stock exchange upon which the company is listed.

7.16 Record of Depositors

- (1) The company shall request the Depository in accordance with the Rules of the Depository, to issue a Record of Depositors to whom notices of general meetings shall be given by the company.
- (2) The company shall also request the Depository in accordance with the Rules of the Depository, to issue a Record of Depositors, as at the latest date which is reasonably practicable which shall in any event be not less than 3 market days before the general meeting ("**General Meeting Record of Depositors**").
- (3) Subject to the Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996 (where applicable), a depositor shall not be regarded as a member entitled to attend any general meeting and to speak and vote thereat unless his name appears in the General Meeting Record of Depositors.

PART I – VOTING AND PROXIES**7.17 Voting rights of members**

Subject to paragraph 7.16 above, a member of the company shall be entitled to be present and to vote at any general meeting in respect of any share or shares upon which all calls due to the company have been paid.

7.18 Voting rights on a show of hands

On a resolution to be decided on a show of hands, a holder of ordinary shares or preference shares who is personally present and entitled to vote shall be entitled to 1 vote.

7.19 Voting right of proxy

A proxy shall be entitled to vote on a show of hands on any question at any general meeting.

7.20 [Deleted]**7.21 Appointment of multiple proxies**

- (1) Where a member of the company is an exempt authorised nominee which holds ordinary shares in the company for multiple beneficial owners in one securities account ("**omnibus account**"), there is no limit to the number of proxies which the exempt authorized nominee may appoint in respect of each omnibus account it holds.

- (2) An exempt authorised nominee refers to an authorised nominee defined under the Securities Industry (Central Depositories) Act 1991 (“**SICDA**”) which is exempted from compliance with the provisions of subsection 25A(1) of SICDA.

7.21A [Deleted]

PART J – DIRECTORS

7.22 Directors’ power to fill casual vacancies and to appoint additional directors

Where provision is made for the directors to appoint a person as a director either to fill a casual vacancy, or as an addition to the board, any director so appointed shall hold office only until the next annual general meeting of the company, and shall then be eligible for re-election.

7.23 Remuneration of directors

Fees payable to non-executive directors shall be by a fixed sum, and not by a commission on or percentage of profits or turnover. Salaries payable to executive directors may not include a commission on or percentage of turnover.

7.24 Annual shareholder approval for directors’ fees and benefits

The fees of directors, and any benefits payable to directors shall be subject to annual shareholder approval at a general meeting.

7.25 Directors’ interest in contracts

A director shall not vote in regard to any contract or proposed contract or arrangement in which he has, directly or indirectly, an interest.

7.26 Election of directors

- (1) An election of directors shall take place each year.
- (2) All directors shall retire from office once at least in each 3 years, but shall be eligible for re-election.

7.27 [Deleted]

7.28 Notice of intention to appoint director

No person, not being a retiring director, shall be eligible for election to the office of director at any general meeting unless a member intending to propose him for election has, at least 11 clear days before the meeting, left at the registered office of the company a notice in writing duly signed by the nominee, giving his consent to the nomination and signifying his candidature for the office, or the intention of such member to propose him for election, provided that in the case of a person recommended by the directors for election, 9 clear days’ notice only shall be necessary, and notice of each and every candidature for election to the board of directors shall be served on the registered holders of shares at least 7 days before the meeting at which the election is to take place.

7.29 Power of managing director

A managing director, or a person performing the functions of a managing director, by whatever name called, shall be subject to the control of the board of directors.

7.30 Proceedings in case of vacancies

The remaining director may continue to act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the minimum number fixed by or pursuant to the constitution of the company, the remaining director may, except in an emergency, act only for the purpose of increasing the number of directors to such minimum number, or to summon a general meeting of the company.

7.31 Appointment of alternate director

A director may appoint a person to act as his alternate provided that –

- (a) such person is not a director of the company;
- (b) such person does not act as an alternate for more than one director of the company;
- (c) the appointment is approved by a majority of the other members of the Board; and
- (d) any fee paid by the company to the alternate shall be deducted from that director's remuneration.

7.32 Chairman's casting vote

Where 2 directors form a quorum, the chairman of a meeting at which only such a quorum is present, or at which only 2 directors are competent to vote on the question at issue shall not have a casting vote.

PART K – ACCOUNTS**7.33 [Deleted]****PART L – WINDING-UP****7.34 Distribution of assets**

The basis on which shareholders will participate in a distribution of assets on a winding-up shall be expressed.

7.35 [Deleted]**PART M – EFFECT OF THESE REQUIREMENTS****7.36 Effect of the Listing Requirements**

- (1) Notwithstanding anything contained in this constitution, if the Listing Requirements prohibit an act being done, the act shall not be done.
- (2) Nothing contained in this constitution prevents an act being done that the Listing Requirements require to be done.
- (3) If the Listing Requirements require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).

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- (4) If the Listing Requirements require this constitution to contain a provision and it does not contain such a provision, this constitution is deemed to contain that provision.
 - (5) If the Listing Requirements require this constitution not to contain a provision and it contains such a provision, this constitution is deemed not to contain that provision.
 - (6) If any provision of this constitution is or becomes inconsistent with the Listing Requirements, this constitution is deemed not to contain that provision to the extent of the inconsistency.
 - (7) For the purpose of this constitution, unless the context otherwise requires, “**Listing Requirements**” means Bursa Malaysia Securities Berhad Main Market Listing Requirements including any amendment to the Listing Requirements that may be made from time to time.

PART N – AMENDMENTS TO THIS CHAPTER

7.37 Amendments to this Chapter

Where any amendment is made by the Exchange to the provisions of this Chapter, a company must make corresponding amendment(s) to its constitution to reflect the said amendment unless its constitution includes the provisions in paragraph 7.36 or its equivalent.

PART O – CLOSED-END FUNDS

7.38 Amendment to investment policies and objectives

Any amendment to a closed-end fund’s investment policies and objectives shall be approved by the shareholders of the closed-end fund by way of a special resolution.

7.39 Management control

A closed-end fund shall not, either on its own or in conjunction with any person, take legal or effective management control of its underlying investments.

7.40 Maximum holdings

No shareholder of a closed-end fund shall hold more than 20% of the total number of issued shares of the closed-end fund.

7.41 Prohibition against conduct of other business

A closed-end fund shall not conduct any other business other than that of a closed-end fund.

PART P – SPECIAL PURPOSE ACQUISITION COMPANIES

7.42 Completion of a qualifying acquisition

- (1) A SPAC shall not proceed to complete a qualifying acquisition unless –
 - (a) where the qualifying acquisition comprises more than one acquisition, the sale and purchase agreements relating to each of the acquisitions are inter-conditional and shall complete simultaneously within 36 months from the date of listing of the SPAC on the Exchange; and

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- (b) the respective resolution on each qualifying acquisition is approved by a majority in number of the holders of voting securities representing at least 75% of the total number of securities held by all holders of voting securities present and voting either in person or by proxy at a general meeting duly called for that purpose.
- (2) A member of the management team and persons connected with them shall not vote on a resolution approving the qualifying acquisition.

7.43 Rights of voting securities holders who vote against a qualifying acquisition

- (1) Holders of voting securities, other than the members of the management team and persons connected with them, who vote against a qualifying acquisition at a meeting convened to consider the qualifying acquisition shall be entitled to receive, in exchange for their securities, a sum equivalent to a pro rata portion of the amount then held in the Trust Account, net of any taxes payable and expenses related to the facilitation of the exchange, provided that such qualifying acquisition is approved and completed not later than 36 months from the date of its listing on the Exchange.
- (2) Holders of voting securities who elect to exchange their securities pursuant to subparagraph (1) above shall be paid as soon as practicable upon completion of the qualifying acquisition. Securities which are tendered by these holders in exchange for cash shall be cancelled.
- (3) [Deleted]

7.44 Liquidation of a special purpose acquisition company

- (1) A SPAC shall be liquidated in accordance with the applicable laws and regulations in the following circumstances:
- (a) if the SPAC fails to complete a qualifying acquisition within 36 months from the date of its listing on the Exchange; or
- (b) if before the SPAC completes a qualifying acquisition, the SPAC is delisted by the Exchange.
- (2) Upon liquidation, the amount then held in the Trust Account, net of any taxes payable and direct expenses related to the liquidation distribution, shall be distributed to the respective holders of voting securities on a pro rata basis as soon as practicable, as permissible by the relevant laws and regulations. Any income earned from the Permitted Investments accruing in the Trust Account shall form part of the liquidation distribution.
- (3) Members of the management team and persons connected with them shall not participate in the liquidation distribution, other than in relation to securities purchased by them after the date of listing of the SPAC on the Exchange.
- (4) Securities holders who are not members of the management team and who invested in the securities of the SPAC prior to the initial public offering, shall not participate in the liquidation distribution, other than in relation to any securities subscribed for by them as part of the initial public offering and securities purchased by them after the date of listing of the SPAC on the Exchange.

[End of Chapter]